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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA CHESS
FEDERATION, INC., an Illinois not-for-
13 profit corporation, RANDALL D. HOUGH,
an individual,

14 Plaintiffs,

15 v.

16 SUSAN POLGAR, an individual,
17 GREGORY ALEXANDER, an individual
DOES 1-10, inclusive

18 Defendants.
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Case No. 3:08-cv-05126-MHP

**DECLARATION OF G. WHITNEY
LEIGH IN SUPPORT OF DEFENDANT
SUSAN POLGAR'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS
WITHHELD ON AN INVALID
ASSERTION OF THE ATTORNEY-
CLIENT PRIVILEGE**

Hearing Date: September 14, 2009
Time: 2:00 p.m.
Courtroom: 15, 18th Floor
Judge: Hon. Marilyn Hall Patel

24 **[DOCUMENTS SUBMITTED UNDER SEAL]**
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1 I, G. WHITNEY LEIGH, declare and state as follows:

2 1. I am an attorney duly licensed to practice in the State of California and am a
3 partner in the law firm of Gonzalez & Leigh, LLP, counsel for Susan Polgar in this case. The
4 matters set forth herein are within my personal knowledge and if called and sworn as a witness, I
5 could competently testify thereto.

6 2. Attached hereto as Exhibit A is a true and correct copy of the Answer and
7 Counterclaim of Sam Sloan and attachments thereto filed in the matter of *Polgar v. United States*
8 *Chess Federation Inc.*, Case No. 5:08-cv-00169-C, United States District Court, Northern
9 District of Texas ("Texas Action"), Docket No. 8, dated September 10, 2008. The Answer and
10 Counterclaim's attachments include written communications between Karl Kronenberger and
11 USCF board concerning the USCF's indemnification of Ms. Polgar; the USCF's "investigation"
12 into the "fake Sam Sloan" emails and their desire to force Ms. Polgar and her husband, Paul
13 Truong, to resign their position as board members.

14 3. Attached hereto as Exhibit B is a true and correct copy of the docket in the Texas
15 Action as of Friday, August 14, 2009. This docket reflects the fact that Plaintiff USCF did not
16 request to remove the emails filed as attachments to the Sloan Answer and Counterclaim until
17 July 14, 2009.¹

18 4. Attached hereto as Exhibit C are true and correct copies of documents bates
19 numbered KRON 114, 1114-15, 1122 which Plaintiff USCF, through its counsel Mr.
20 Kronenberger, produced to Defendant Susan Polgar in the Texas Action on April 17, 2008.
21 These documents include the same written communications between Karl Kronenberger and
22 USCF board members as those attached to the Sloan Counterclaim, as well as portions of an
23 undated communication between Kronenberger and the USCF board member concerning Ms.
24 Polgar's request for indemnification.

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26 ¹ See also Kronenberger Decl. ISO Obj. To Ev. Re: MSJ & Disqualify Mot. At 1 fn 1 (citing
27 Docket No. 163 – dated July 14, 2009—as its "objection" to evidence filed in the Texas action).

5. Attached hereto as Exhibit D are true and correct copies of documents bates numbered POL000186 - 197, which Defendant Susan Polgar produced to Plaintiff USCF on May 4, 2009. These documents include the same written communications between Karl Kronenberger and USCF board members as those attached to the Sloan Counterclaim. Thereafter, Plaintiff USCF did contend that these documents should be designated confidential, produced as confidential under the Protective Order, or were otherwise privileged.

6. Attached hereto as Exhibit E are true and correct copies of document bates numbered POL000318-320, which Ms. Polgar produced this email to plaintiffs on May 8, 2009. This document contains a copy of the undated communication between Kronenberger and USCF board members concerning Ms. Polgar's request for indemnification, a portion of which the USCF produced to Ms. Polgar in document number KRON000114.² Thereafter, Plaintiffs did not contend that this document should be designated confidential, produced as confidential under the Protective Order, or were otherwise privileged.

7. Attached hereto as Exhibit F are true and correct copies of postings on a Google chess discussion board reproducing the same 2007 communications between Kronenberger and USCF board members which were (i) attached to the Sloan Counterclaim, (ii) produced by the USCF in the Texas action, and (iii) produced by Ms. Polgar in the instant action. These communications were found posted on the Google chess discussion board at <http://groups.google.co.uk/group/rec.games.chess.politics/msg/6f9a260a9bef2b25?> as recently as August 13, 2009.

² Although the email is undated, within the email Kronenberger discusses his plan to send a letter to Paul Truong requesting information relating to Brian Mottershead's allegations. Because the letter that Kronenberger refers to was actually sent to Mr. Truong on November 29, 2007, it is apparent that the attached email predates the letter, i.e. before November 29, 2007. The letter was posted on the Google chess discussion board at <http://groups.google.com/group/rec.games.chess.politics/browse/thread/thread/401b45c548d5860f9b80Ink=gst&q=kronenberger#9b805b3a94a5b64a>, but has since been removed.

8. Attached hereto as Exhibit G is a true and correct copy of a letter that I sent on April 29, 2009 to Sumeena Birdi, an attorney at Kronenberger Burgoyne, LLP, responding to a letter that I received from her dated April 27, 2009. In that letter, I explained to her that the emails that I had reviewed relating to Mr. Kronenberger's communications with Joel Channing, a former member of the United States Chess Federation's Executive Board, were retrieved from the internet docket [PACER] of the related action in United States District Court for the Northern District of Texas, Case No.5:08-CV-00169-C (hereinafter referred to as the "Texas action").

9. Attached hereto as Exhibit H is a letter dated June 10, 2009, from myself to Karl Kronenberger. In this letter, I explained, *inter alia*, that Mr. Kronenberger's claims that I possessed email correspondence that had not been published on the internet was not true, and that I had produced to him all of the emails between him and any and all members of the USCF's Executive Board on May 4 and 8, 2009.

10. Attached hereto as Exhibit I are true and correct copies of a privilege log produced by Plaintiff USCF in the Texas Action on or about June of 2009.

11. Attached hereto as Exhibit J are true and correct copies of a "partial" privilege log produced by Plaintiff USCF in the Texas Action on or about June of 2009.

12. Attached hereto as Exhibit K is an email thread dated October 18 – 20, 2007 between members of the USCF Executive Board regarding the retention of Karl Kronenberger.

13. Attached hereto as Exhibit L are communications between Whitney Leigh and Karl Kronenberger between November 17, 2008 and March 25, 2009 regarding Ms. Polgar's request for indemnification.

14. Attached hereto as Exhibit M are excerpts from the transcript of the April 13, 2009 hearing on Ms. Polgar's Motion To Transfer.

15. Attached hereto as Exhibit N are three communications between myself and David Herman between April 16, 2009 and April 22, 2009.

16. Attached hereto as Exhibit O are true and correct copies of the deposition of Susan Polgar, in the Texas action, dated June 30, 2009 and July 1, 2009 (received on July 29,

2009 and subject to correction), in which Ms. Polgar, during a two-day deposition, explained in detail how, when, and where she learned of the emails that are the subject of this litigation and in which Ms. Polgar explained that she specifically notified the USCF of the emails between board members and Kronenberger and requested that the Board *stop* providing such emails to the public, but that the Board, rather than demand that she return these emails, simply denied her request. **[Document submitted under seal]**

17. Attached hereto at Exhibit P are true and correct copies of the deposition of Karl Kronenberger in the Texas action, dated July 2, 2009. During his deposition, Mr. Kronenberger was questioned regarding emails written in his name to members of the USCF's Executive Board, in which he proposes to interfere with Ms. Polgar's indemnification by the USCF's insurer in pending New York litigation, at the same time that he was holding himself out to Ms. Polgar as an attorney conducting an independent investigation. Mr. Kronenberger refused to answer questions regarding these communications, on the grounds of attorney-client communication privilege and confidentiality. At no time did Mr. Kronenberger contest the authenticity of these emails. **[Document submitted under seal]**

18. Attached hereto at Exhibit Q is a true and correct copy of a letter dated November 29, 2007 from Karl Kronenberger to Paul Truong re: Investigation of Imposter Internet Postings.

19. Attached hereto at Exhibit R is a true and correct copy of an email dated January 12, 2008 from Paul Truong to Randy Bauer and Susan Polgar.

20. Attached hereto at Exhibit S is a true and correct copy of a letter dated November 27, 2007 from Jeremy Brown of Proskauer Rose, LLP to Susan Polgar.

21. Attached hereto at Exhibit T is a true and correct copy of a letter dated August 25, 2008 from Karl Kronenberger to James Killion.

22. Attached hereto at Exhibit U is a true and correct copy of pages from the Kronenberger Burgoyne firm website, formerly found at the web address, <http://www.kbinternetlaw.com/anonymousfraud.html>.

23. Attached hereto as Exhibit V is a true and correct copy of correspondence between Susan Polgar's Texas counsel and counsel for the USCF in the Texas action in which Polgar's counsel requests that the USCF's counsel provide a more legible copy of the USCF's privilege log. The USCF refused to provide such a copy.

24. Attached hereto as Exhibit W is a true and correct copy of USCF's Objections and Response to Defendant Polgar's First and Second Requests for Production of Documents, dated April 27, 2009.

25. Attached hereto as Exhibit X is a true and correct copy of an email from Karl Kronenberger to G. Whitney Leigh dated November 7, 2008.

26. Attached hereto as Exhibit Y is a true and correct copy of emails between Susan Polgar, Proskauer Rose LLP, and Chubb Group of Insurance Companies relating to Ms. Polgar's tender of defense in the Sam Sloane litigation.

27. Attached hereto as Exhibit Z is a true and correct copy of a letter from G. Whitney Leigh to Karl Kronenberger dated June 5, 2009

28. Attached hereto as Exhibit AA is a true and correct copy of a letter dated June 17, 2009 from Matt Springman to Karl Kronenberger.

29. Attached hereto as Exhibit BB is a true and correct copy of an email dated December 3, 2007 from Susan Polgar to Karl Kronenberger.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on August 17, 2009 at San Francisco, California

/s/ G. Whitney Leigh
G. WHITNEY LEIGH